

Attorney Docket No. 043978-35000

Serial No. 10/076,950

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**REMARKS**

The Office Action of May 8, 2007, was received and its contents carefully reviewed. Claims 1-24 and 33-40 are currently pending. Claims 25-32 were previously canceled. In the Office Action mailed May 8, 2007, the Examiner asserts that the present application contains claims directed to patentably distinct species and that Applicant is required under 35 U.S.C. § 121 to elect a single disclosed species for prosecution on the merits. In order to comply with the Examiner's assertion that the application contains claims directed to patentably distinct species of the claimed invention, Applicant provisionally elects with traverse, species of claims 1-7 drawn to a method and system of generating and inserting an indicator into a video stream. Applicant traverses the requirement for election of a species for the reasons outlined below.

**Claims as Presented**

Claims 1-7 are directed to a method and system of generating and inserting an indicator into a video stream and may be classified properly in class 375, subclass 240.28. Claims 8-11 recite a closely related method for inserting indicators into a time-encoded video stream, and claims 12-16 recite another closely related method and system of inserting indicators into a time-encoded video stream with additional features and limitations. Claims 17-22 and 23-24 recite a closely related method and system of inserting indicators in a video stream manually and automatically, respectively. Claims 33-40 recite a method and system of generating an enhanced video signal corresponding to the methods and systems of indicators in video streams recited by claims 1-24.

The recited claims 1-24 and 33-40 are not directed toward distinct species, and are instead closely related and directed to a single embodiment of the present invention. Claims 1-24 recite methods and systems of generating and inserting indicators into video streams. Claims 33-40 recite additional method and system claims corresponding to the indicators and video stream recited by claims 1-24.

Additionally, as all of these claims should be classified in class 375, subclass 240.28, the field of search is the same for all claims 1-24 and 33-40.

### Species Claims

The Examiner asserts that the present application contains six distinct species. Applicant respectfully submits that this characterization is not correct in view of MPEP § 804.04(e). The species election requirement is improper on its face since it defines each of the proposed species only in terms of the claim language. Claims may be restricted to a single disclosed embodiment, but the Examiner inappropriately defined the species in terms of the claims.

Claims 1-7 include a single embodiment and are directed to a method and system of generating and inserting an indicator into a video stream. Claims 8-11 further recite a method of inserting indicators into a video stream with additional features and limitations not disclosed by method claims 1-7. However, claims 8-11 also relate to the same single embodiment. Likewise, claims 12-16, 17-22, 23-24 and 33-40 recite yet additional methods and systems of inserting indicators into a video stream with additional features and limitations of the same embodiment. As such, Applicant respectfully submits that the election of species requirement is improper. Applicant respectfully requests reconsideration and withdrawal of the previous election of species requirement made on claims 1-24 and 33-40.

### Conclusion

The Examiner has not asserted that there are different inventions, nor has the Examiner provided any explanation as to how the proposed species may be divided as listed in the May 8, 2007, Office Action. Claims 1-24 and 33-40 relate to a single embodiment and are not different species. The Examiner has not provided the required explanation of the above species election criteria, the claims at issue are directed to a single embodiment of the present invention, and the claims at issue may be classified in the same class and subclass. There is no undue burden on the Examiner to perform a search of the prior art. For at least these reasons, Applicant

Attorney Docket No. 043978-35000

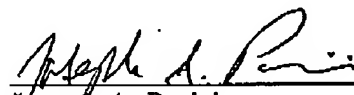
Serial No. 10/076,950

Page 13

respectfully submits that the species election requirement is improper. Applicants respectfully request reconsideration and withdrawal of the previous restriction requirement made on claims 1-24 and 33-40.

As further suggested in the telephone restriction practice outlined in MPEP § 812.01, if the Examiner determines that a further requirement for restriction should be made in the application, Applicant respectfully requests that the Examiner contact the Applicant's undersigned representative to facilitate resolution of this matter so that prosecution of the case on the merits may continue.

Respectfully submitted,



Joseph A. Parisi

Registration No. 53,435

NIXON PEABODY LLP

Customer No. 22204

Suite 900, 401 9<sup>th</sup> Street, N.W.

Washington, D.C. 20004-2128

(202) 585-8000